



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

FILED

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REGIONAL HEARING CLERK

SEP 27 2005

Danielle Carr
Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Re: IN THE MATTER OF: Race Builders, Inc. and MRM Marine, LLC, Docket No. CWA-9-2005-0012: *Consent Agreement and Final Order*

Dear Ms. Carr:

Enclosed for filing in the above captioned proceeding is the original and one copy of "Final Order" with the "EPA Region 9 Collection Information" and "Consent Agreement" as signed by Complainant and Respondent attached. The "Consent Agreement and [Proposed] Final Order" was filed on August 10, 2005.

As set forth in the August 10, 2005 "Consent Agreement and [Proposed] Final Order," the parties are seeking approval of their agreement to settle this proceeding pursuant to 40 CFR 22.18(b), and are moving for issuance of the enclosed Final Order.

I have received no comments in response to the public notice of this proceeding, and I understand that no comments regarding the proceeding have been submitted to the Regional Hearing Clerk.

Respectfully submitted,

Elizabeth La Blanc
Assistant Regional Counsel

Enclosure

1 **FINAL ORDER**

2 Pursuant to 40 C.F.R. Part 22, Subpart I, and 40 C.F.R. §§ 22.4(b) and (c), and 22.18
3 (*Quick resolution*), it is hereby ordered that:

4 1. The settlement of this proceeding is approved, and the accompanying consent
5 agreement is ratified;

6 2. Respondents shall no later than thirty (30) days after receipt of this order pay an
7 administrative penalty of \$32,500.00 in accordance with any of the acceptable methods of
8 payment listed in Exhibit A, "EPA Region 9 Collection Information," which is incorporated by
9 reference as part of this CA/FO. Concurrent with payment of the penalty, Respondents shall
10 provide written notice of payment, referencing the title and docket number of this case and
11 attach a photocopy of the penalty payment, via certified mail to each of the following:

12 Danielle Carr, Regional Hearing Clerk
13 EPA Region 9, ORC-1
14 75 Hawthorne Street
San Francisco, CA 94105

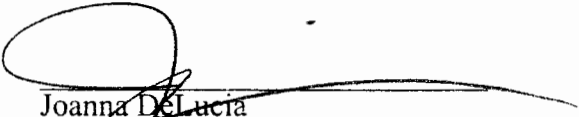
15 and to:

16 Elizabeth La Blanc
17 Assistant Regional Counsel (ORC-2)
18 U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

19 4. All payments shall indicate the title and docket number of this case.

20 **IT IS SO ORDERED.**

21 Date: 9/27/05

22 
23 Joanna DeLuca
24 Regional Judicial Officer
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

EPA Region 9 Collection Information

as of January 31, 2005

This information should be provided to the payers. Either method of payment, by check or electronic funds transfer (also known as wire transfer), is acceptable. However, EFT is recommended for payments of \$10,000 or more.

ELECTRONIC FUNDS TRANSFERS

Mellon Bank
ABA 043000261
Account 9109125
22 Morrow Drive
Pittsburgh, PA 15235

Account name : Environmental Protection Agency

SWIFT Address: MELNUS3P (needed only for international transfers)

CHECK PAYMENTS

(Add the word Superfund for all Superfund debts.)

For checks drawn on U.S. banks sent by U.S. Postal Service:

U.S. Environmental Protection Agency
Region 9 [add 'Superfund' when appropriate]
P.O. Box 371099M
Pittsburgh, PA 15251

For checks drawn on U.S. banks and sent by express delivery services (Fedex, DHL):

Mellon Client Service Center
ATTN: Shift Supervisor Lockbox 371099M
500 Ross Street
Pittsburgh, PA 15262-0001

Phone #: (412) 234-5805

For checks drawn on foreign banks with no U.S. branches:

Citibank Delaware
Global Cheque Collections
P.O. Box 15962
Wilmington, DE 19850-5962

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

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IN THE MATTER OF:) Docket No. CWA-9-2005-00xx
Race Builders, Incorporated and)
MRM Marine, LLC) **CONSENT AGREEMENT AND**
) **[PROPOSED] FINAL ORDER**
)
Class I Proceeding under Section 309(g)) Proceeding to Assess Class II
of the Clean Water Act) Administrative Penalty Under
Clean Water Act, Section 309(g)

CONSENT AGREEMENT

1. Race Builders Incorporated ("Race Builders"), MRM Marine LLC ("MRM") ("Respondents") and the Environmental Protection Agency ("Complainant") seek approval of their agreement to settle this proceeding pursuant to 40 C.F.R. § 22.18(b), and move for issuance of the accompanying Proposed Final Order. The Parties agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public interest, that it is consistent with the provisions and objectives of the Clean Water Act and applicable regulations, and that entry of this Consent Agreement and Proposed Final Order ("CA/FO") is the most appropriate means of resolving such matters.

2. Respondents admit the jurisdictional allegations of the "Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing Thereon" ("Complaint") pursuant to 40 C.F.R. § 22.18(b)(2); neither admit nor deny any other allegation, finding of fact, or conclusion of law asserted by Complainant; and waive any right to contest the Complainant's allegations or the right to appeal the Proposed Final Order.

3. In addition, Respondents agree to a total settlement penalty of \$32,500.00. The civil cash penalty must be paid on or before thirty (30) calendar days after receipt by Respondents of the Final Order. Respondents shall make payment under this CA/FO in accordance with any of the acceptable methods of payment listed in Exhibit A, "EPA Region 9 Collection Information," which is incorporated by reference as part of this CA/FO. Concurrent

1 with payment of the penalty, Respondents shall provide written notice of payment, referencing
2 the title and docket number of this case and attach a photocopy of the penalty payment, via
3 certified mail to each of the following:

4 Danielle Carr
5 Regional Hearing Clerk
6 EPA Region 9, ORC-1
7 75 Hawthorne Street
8 San Francisco, CA 94105

9 and to:

10 Elizabeth La Blanc
11 Assistant Regional Counsel (ORC-2)
12 U.S. EPA, Region IX
13 75 Hawthorne Street
14 San Francisco, CA 94105

15 4. All payments shall indicate the title and docket number of this case.

16 5. Payment must be received at the address referred to in paragraph 3 on or before its
17 due date, as specified in paragraph 3.

18 6. Pursuant to section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), should Respondents
19 fail to pay by the due date the amount of any penalty settlement amount assessed by the Final
20 Order, EPA may bring a civil action in an appropriate district court to recover the amount
21 assessed. In such action, the validity, amount, and appropriateness of such penalty shall not be
22 subject to review. In that action, Respondents shall be required to pay (in addition to any
23 assessed penalty, interest, and monthly handling charges) attorney fees, costs for collection
24 proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to
25 pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of
26 the aggregate amount of Respondents' penalty and nonpayment penalty which are unpaid as of
27 the beginning of such quarter. 33 U.S.C. § 1319(g)(9).

28 7. The provisions of this CA/FO shall be binding upon Respondents, their successor
29 and/or assigns.

30 8. Each undersigned signatory to this CA/FO certifies that he or she is duly and fully
31 authorized to enter into and ratify this CA/FO.

1 9. Respondents consent to the assessment of the civil administrative penalty as set forth
2 in this CA/FO and agrees to pay the penalty in accordance with the terms of this CA/FO.

3 10. In accordance with 40 C.F.R. § 22.18(c), this CA/FO resolves only Respondents'
4 liabilities for federal civil penalties for the violations and facts specifically alleged in the
5 Complaint. Nothing in this CA/FO is intended to or shall be construed to resolve: (a) any civil
6 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
7 ordinance, or permit not specifically alleged in the Complaint; or (b) any criminal liability. EPA
8 specifically reserves any and all authorities, rights, and remedies available to it (including, but
9 not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation
10 of this CA/FO or any violation not specifically alleged in the Complaint. This CA/FO does not
11 exempt, relieve, modify, or affect in any way Respondents' duties to comply with all applicable
12 federal, state, and local laws, regulations, rules, ordinances, and permits.

13
14 FOR COMPLAINANT, U.S. Environmental Protection Agency, Region 9:

15 Date: 7/22/05

Alexis Strauss
Alexis Strauss, Director
Water Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

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19 FOR RESPONDENT, Race Builders Incorporated

20 Date: 7/22/05

Rod Halbert
Rod Halbert, President
Race Builders Incorporated
3875 Taylor Road, Suite B
Loomis, CA 95650-9272

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22
23 FOR RESPONDENT, MRM Marine, LCC

24
25 Date: 8/2/05

Robert Cope
Robert Cope, President
MRM Marine, LCC
4409 Granite Drive
Rocklin, CA 95677

CERTIFICATION OF SERVICE

I certify that the original and the foregoing and *Consent Agreement and Final Order*, IN THE MATTER OF: Race Builders, Inc. and MRM Marine, LLC, Docket No. CWA-9-2005-0012 has been filed with the Region 9 Hearing Clerk and that copies were sent return receipt requested to the following:

Mr. Rod Halbert
Race Builders, Incorporated
3875 Taylor Road, Suite B
Loomis, California 95650-9272

Mr. Robert Cope
MRM Marine
4409 Granite Drive
Rocklin, CA 95677-2131

Ms. Kate A. Leary
Taylor & Wiley
2870 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833

Date: _____

9-28-05



Danielle E. Carr
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street (ORC-1)
San Francisco, CA 94105